

**STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF THE REQUEST)	
FOR REVIEW BY:)	CHARGE NO.: 2008CN3985
)	EEOC NO.: 440-2008-03179
LETHA T. TOBIAS,)	ALS NO.: 10-0109
)	
Petitioner.)	

ORDER

This matter coming before the Commission by a panel of three, Commissioners Munir Muhammad, Rozanne Ronen, and Charles E. Box, upon Letha T. Tobias's ("Petitioner") Request for Review ("Request") of the Notice of Dismissal issued by the Department of Human Rights ("Respondent")¹ of Charge No. 2008CN3985; and the Commission having reviewed all pleadings filed in accordance with 56 Ill. Admin. Code, Ch. XI, Subpt. D, § 5300.400, and the Commission being fully advised upon the premises;

NOW, **THEREFORE**, it is hereby **ORDERED** that the Respondent's dismissal of the Petitioner's charge is **SUSTAINED** on the following grounds:

- (A) The Respondent's dismissal of Count A of the Petitioner's charge is **SUSTAINED** for **LACK OF JURISDICTION**.
- (B) The Respondent's dismissal of Count B of the Petitioner's charge is **SUSTAINED** for **LACK OF SUBSTANTIAL EVIDENCE**.

In support of which determination the Commission states the following:

1. On August 29, 2008, the Petitioner filed a charge of discrimination with the Respondent. The Petitioner alleged that Health Care Services ("Employer") discharged her (Count A) and denied her unemployment compensation (Count B) in retaliation for having filed a previous charge of discrimination with the Respondent, in violation of Section 6-101(A) of the Illinois Human Rights Act ("Act"). On January 21, 2010, the Respondent dismissed Count A of the Petitioner's charge for Lack of Jurisdiction and dismissed Count B of the Petitioner's charge for Lack Substantial Evidence. On February 10, 2010, the Petitioner filed this timely Request.
2. The Petitioner worked as a Senior Programmer Analyst for the Employer.

¹ In a Request for Review Proceeding, the Illinois Department of Human Rights is the "Respondent." The party to the underlying charge requesting review of the Department's action shall be referred to as the "Petitioner."

3. On May 7, 2007, the Employer discharged the Petitioner.
4. On February 8, 2008, the Petitioner was denied unemployment compensation by the Illinois Department of Employment Security ("IDES").
5. In her charge the Petitioner alleged the Employer discharged her on May 7, 2007 in retaliation for having previously filed a charge of discrimination against the Employer with the EEOC on October 6, 2006. The Petitioner further alleged that on February 8, 2008, the IDES denied her request for unemployment benefits because the Employer protested her application. The Petitioner contends the Employer protested her application for unemployment benefits in order to retaliate against her for having filed the EEOC charge in October 2006.
6. In her Request, the Petitioner gives a brief summary of the harassment she alleges occurred while working for the Employer. The Petitioner states the Employer's Human Resources personnel denied there were any problems, and over time Human Resources became less aggressive in investigating the Petitioner's complaints.
7. In its Response, the Respondent asks the Commission to sustain its dismissal of Count A of the Petitioner's charge for lack of jurisdiction because the Petitioner did not file her charge within 180 days of the civil rights violation alleged to have occurred on May 7, 2007. As to Count B, the Respondent argues there is no substantial evidence to support the Petitioner's retaliation claim because there was no evidence of a causal connection between the filing of the EEOC charge in October 2006 and the denial of her unemployment benefits on February 8, 2008.

CONCLUSION

The Commission concludes that the Respondent properly dismissed the Petitioner's charge.

First, the Respondent correctly dismissed Count A of the Petitioner's charge for lack of jurisdiction. In all matters, except those involving allegations of housing discrimination, a charge must

be filed with the Respondent within 180 days after the date that the alleged civil rights violation has occurred. See 775 ILCS 5/7A-102(A). This is a jurisdictional requirement. See Trembczynski v. Human Rights Commission, 252 Ill.App.3d 966, 625 N.E.2d 215, 218 (1st Dist. 1993). If the charge is not timely filed with the Respondent, then the Respondent shall be deprived of jurisdiction to investigate the charge.

As to Count A, the Petitioner alleged the civil rights violation occurred on May 7, 2007, when she was discharged. The Petitioner filed her unperfected charge with the EEOC on February 20, 2008, at which time the unperfected charge was deemed to have been filed with the Respondent. The Petitioner filed her unperfected charge with the Respondent 289 days after the date of the alleged civil rights violation. Therefore, the Petitioner's charge is untimely as to Count A.

Second, the Commission concludes that the Respondent properly dismissed Count B of the Petitioner's charge for lack of substantial evidence. If no substantial evidence of discrimination exists after the Respondent's investigation of a charge, the charge must be dismissed. See 775 ILCS 5/7A-102(D). Substantial evidence exists when the evidence is such that a reasonable mind would find the evidence sufficient to support a conclusion. See In re Request for Review of John L. Schroeder, IHRC, Charge No. 1993CA2747 (March 7, 1995), 1995 WL 793258, *2 (Ill.Hum.Rts.Com.)

In order to establish a *prima facie* case of retaliation, there must be evidence that (1) the Petitioner engaged in a protected activity; (2) the Employer committed an adverse action against her; and (3) a causal connection exists between the protected activity and the adverse action. See Welch v. Hoeh, 314 Ill.App.3d 1027, 1035, 733 N.E.2d 410, 416 (3rd dist. 2000). A causal connection will be inferred if the period of time between the protected activity and the adverse action is sufficiently short. See Mitchell and Local Union, 146, 20 Ill. HRC Rep. 101, 110-11 (1985) (*Six months was too remote to establish connectedness*); Lynell Mims and State of Illinois, Illinois Department of Lottery, IHRC, ALS No. 6181, 1998 WL 937898, *11 (December 17, 1998) (*Nineteen-month time period between protected activity and adverse action too long to create an inference of retaliation*).

The Petitioner alleged the protected activity took place on October 6, 2006, and the alleged adverse action occurred on February 8, 2008, some 16 months later. The Commission finds that the

time period of 16 months between the protected activity and the adverse action is too remote to create an inference of retaliation.

Accordingly, it is the Commission's decision that the Petitioner has not presented any evidence to show that the Respondent's dismissal of her charge was not in accordance with the Act. The Petitioner's Request is not persuasive.

WHEREFORE, IT IS HEREBY ORDERED THAT:

- (A)** The Respondent's dismissal of Count A of the Petitioner's charge is **SUSTAINED** for **LACK OF JURISDICTION**.
- (B)** The Respondent's dismissal of Count B of the Petitioner's charge is **SUSTAINED** for **LACK OF SUBSTANTIAL EVIDENCE**.

This is a final Order. A final Order may be appealed to the Appellate Court by filing a petition for review, naming the Illinois Human Rights Commission, the Illinois Department of Human Rights, and Health Care Services, as Respondents with the Clerk of the Appellate Court within 35 days after the date of service of this Order.

STATE OF ILLINOIS

HUMAN RIGHTS COMMISSION

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Entered this 8th day of September 2010.

Commissioner Munir Muhammad

Commissioner Rozanne Ronen

Commissioner Charles E. Box